

## **Final Text of Emergency Regulations**

**Sections 3480 through 3481 are unchanged.**

**Section 3482 is amended to read:**

### **3482. Joint Venture Program Contracts.**

(a) In addition to state contract requirements, each Joint Venture Program (JVP) contract shall include, but not be limited to, the following:

**Subsection 3482(a)(1) through (3) is unchanged.**

**Subsection 3482(a)(4) and (5) is amended to read:**

(4) A requirement that inmate-employees shall be paid “comparable wages” as defined by PC section 2717.8. “Comparable wages” means that compensation of inmate-employees by the Joint Venture Employer shall be comparable to the wages paid by the Joint Venture Employer to non-inmate employees performing the same or similar work for that employer. If the Joint Venture Employer does not employ such non-inmate employees in the same or similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. These wages are subject to the deductions listed in Section 3485(h) and the mandatory savings listed in Section 3485(i).

(5) A provision that the administrator of the JVP shall monitor the wage rates paid to inmate-employees for compliance with the comparable wage requirement of PC section 2717.8.

**Subsection 3482(a)(6) through 3482(a)(11) is unchanged.**

(12) Responsibilities of the Joint Venture Employer, specifically those regarding:

**3482(a)(12)(A) through (a)(12)(J) is unchanged.**

**Subsection 3482(a)(12)(K) is amended to read:**

(K) A requirement that the Joint Venture Employer prepare and submit to the administrator of the JVP for its review and approval:

1. Prior to commencing business, a detailed job description for each job to be performed at the facility;
2. At the time additional jobs are created, a detailed job description for each new job;
3. A revised job description when there is a twenty-five percent or more change in job duties;
4. If there are non-inmate employees performing the same or similar work for that employer, a detailed job description, wage rate, and a wage plan for its non-inmate workforce with documentation; or
5. Annually, an updated, detailed job description for all jobs at the Joint Venture Employer's operation. Duty statements shall include a description of tasks to be performed, machines used, and skills required for each job and shall be certified as to the accuracy of the job description under oath by the JVE.

**Subsections 3482(a)(12)(L) through 3482(d) are unchanged.**

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.5, 2717.6, 2717.8, and 5054, Penal Code; and Section 5, Article XIV of the State Constitution; *Vasquez v. State of California*, 105 Cal.App.4<sup>th</sup> 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

**Section 3483 is unchanged.**

**3484. Monitoring Comparable Wages and Wage Plans.**

**Subsections 3484(a) through 3484(b) are amended to read:**

(a) The JVP shall monitor the wage rates and wage plans submitted by the Joint Venture Employer for compliance with PC section 2717.8. Monitoring shall include, but not be limited to, unannounced on-site visits to determine the accuracy of the job descriptions and to assess compliance with wage plan requirements including compliance with PC section 2717.8. The

JVP shall develop a written protocol for these visits and retain a copy of the on-site visit reports for at least five years.

(b) The JVP shall obtain wage data, applicable Standard Occupational Codes (SOC), and survey data from Occupational Employment Surveys (OES) for each inmate-employee job description from the Employment Development Department annually, upon the creation of any new JVE job position, upon the alteration of any existing position, or upon the establishment of any new JVP business.

**Subsections 3484(c) through 3484(e) are adopted to read:**

(c) The JVE job descriptions and wage plans shall be reviewed annually, upon the creation of any new JVE job position, upon the alteration of any existing position, or upon establishment of a new JVP business.

(d) The JVP shall maintain a database which includes each inmate's date of hire, hourly wage, hours worked and the SOC code for each inmate position.

(e) The JVP shall conduct desk audits every ninety days of a randomly selected ten percent of the inmate workforce and shall review salary levels to verify that the comparable wage rates are being paid.

NOTE: Authority cited: 2717.3 and 5058, Penal Code. Reference: Sections 2717.3, 2717.4, 2717.8 and 5054, Penal Code; *Vasquez v. State of California*, 105 Cal.App.4<sup>th</sup> 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

**3485. Inmate Joint Venture Program Participation.**

**Subsections 3485(a) through 3485(h) are unchanged.**

**Subsections 3485(i) through (i)(1) are unchanged.**

(i) In addition to (h) of 3485, twenty percent of the inmate's net wages after taxes shall be retained for the inmate in mandatory savings under the control of the department.

(1) Funds retained for an inmate's mandatory savings shall be deposited in an interest bearing account.

**Subsections 3485(i)(2) and (i)(3) are amended to read:**

(2) Inmate-employees who terminate from Joint Venture Program with a savings account balance of \$500 or less may voluntarily elect to close their account and have the balance forwarded to their institutional trust account in order to avoid account fees.

(3) Each inmate's savings, plus the interest accrued by their savings, shall be provided to the inmate upon their release. Inmate-employee savings accounts are intended solely for the deposit of wages earned from employment with the JVE. Institution heads may authorize an earlier withdrawal of up to 50% of an inmate's savings in cases where the inmate is sentenced to 15 years or more and the inmate has accrued \$6500 or more from Joint Venture wages in their account.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.8 and 5054, Penal Code.

**New Section 3486 is adopted to read:**

**3486. Compliance.**

If a JVE is found to be in non-compliance with PC section 2717.8 or the provisions of sections 3482(a)(4) and 3482(a)(12)(K), the JVP administrator shall issue a written notice requiring the JVE, within 30 days, to comply with the JVP contract. After 30 days, if the JVE remains non-compliant with the contract, the administrator shall issue to the JVE a written 30-day cancellation notice indicating that the JVE is in material breach of contract. Any bonds held

pursuant to 3483(a)(12)(J) shall be forfeited if the JVE is found to be non-compliant. At the close of the 30-day cancellation notice, if the JVE has not come into compliance with the contract, the JVE shall be terminated from the JVP.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.8 and 5054, Penal Code; *Vasquez v. State of California*, 105 Cal.App.4<sup>th</sup> 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.